

EXHIBIT F

PART 6

1 hypothesis or that kind of concept means people
2 will rely on this device and the fact that it has a
3 failure mode where you hit your foot on the front
4 of it and it opens up means that there is a failure
5 mode that can manifest itself in a new hazard.

6 I don't have a problem using the fact that
7 there is safety philosophy in Ralph Barnett's
8 publications that you shouldn't add a safety device
9 if it is going to cause a new hazard or aggravate
10 an existing hazard. I think putting the door on
11 does cause a new hazard or aggravate existing
12 hazards.

13 So I could use those. I have used them to some
14 extent. But they are not really the one or two
15 primary sources that I would use for making this
16 evaluation because I think that would be
17 inappropriate.

18 But from a philosophical standpoint I have no
19 problem using these and I guess to some extent
20 I may have used them.

21 BY MR. HARTMAN:

22 Q. Okay. If you would have said you may have
23 used them, you would have answered my question.

24 A. Well, you know, I tend to be long-winded.

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1 I am sorry.

2 MR. ROBINSON: Yeah, we have the time to spend
3 here today. If the witness ever wants to describe
4 his answer and his thought process as he has just
5 done in getting to his answer, I just don't want
6 him to be under any misconception that's what he is
7 required to do or being asked to do.

8 BY MR. HARTMAN:

9 Q. On page 15 you indicate Linemaster never
10 promoted the front cover foot control for press
11 brake -- for a press brake of this type and to this
12 date does not in any way suggest and/or restrict
13 the sales of covered or uncovered foot switches for
14 press brakes.

15 Did I accurately read your statement?

16 A. Yes.

17 Q. Am I correct that Linemaster does not
18 promote any type of foot control for press brakes?

19 A. That's correct.

20 Q. Am I correct that they do not suggest or
21 restrict the sales of any of its foot controls for
22 any product?

23 A. As far as I am aware of, that's correct.

24 Q. You refer to Linemaster, American Foot

1 Switch Leader Catalog, 1979, Woodstock,
2 Connecticut, 1979 in your report; am I correct?
3 That's at the very bottom.

4 A. Yes.

5 Q. Do you have a copy of that with you?

6 A. No, I don't.

7 Q. Could you provide me with a copy of that,
8 please?

9 A. I think that -- I will see if I can get a
10 copy of that, yes.

11 Q. Thank you very much.

12 A. The entire document or the -- what I have
13 quoted here?

14 Q. I would like the entire catalog.

15 A. I don't know if I have the entire catalog.
16 I may just have the page I am quoting from.

17 Q. Whatever you have. If you just have the
18 page, I have a copy of that. If you have the
19 entire document, I would prefer that.

20 A. Okay. Can you put that request in
21 writing? Because I am not going to remember it
22 based on this deposition.

23 MR. ROBINSON: It will go through me and then
24 we will separately include your time for any

1 follow-up requests so that Mr. Hartman can foot
2 that bill.

3 BY MR. HARTMAN:

4 Q. Does ANSI or OSHA permit -- promote the
5 latch trip lever contained in the Model 511
6 Linemaster foot control?

7 MR. ROBINSON: Object to the form.

8 THE WITNESS: Do they promote it?

9 BY MR. HARTMAN:

10 Q. Yes.

11 A. I have never seen it identified as the
12 preferred method, no.

13 Q. Do they embrace it?

14 MR. ROBINSON: Objection to the form.

15 THE WITNESS: I haven't seen it identified as
16 here is the example of what we would recommend as
17 far as giving an example. I don't think they would
18 disallow it but I haven't seen it where it says
19 this is the -- this is the best way to do it.

20 BY MR. HARTMAN:

21 Q. Does ANSI ever say this is the best way to
22 protect a foot control from inadvertent activation?

23 MR. ROBINSON: Object to the form.

24 THE WITNESS: I think by giving -- diagrams and
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1 giving functional characteristics particulars they
2 do promote it. They talk about it should be
3 guarded from the top and from the side. They never
4 talk about it needing to be guarded from the front.
5 So I think that is a way of promoting that
6 configuration.

7 BY MR. HARTMAN:

8 Q. So if ANSI has a diagram of a foot
9 control, they are promoting the foot control is
10 your testimony?

11 A. I think they are giving it as an example
12 and by doing it, they are promoting that. They are
13 demonstrating here is a good example. I don't
14 think they would put -- without saying this is a
15 bad example, I don't think they would put it in
16 their documentation and offer it if it was the bad
17 example or an inadequate example.

18 Q. Do you believe that a covered foot control
19 with a latch in it is a safer foot control for
20 operating a press brake than merely a covered foot
21 control?

22 MR. ROBINSON: Objection to the form.

23 THE WITNESS: I think safer is a difficult
24 thing to evaluate in this case. It enhances some

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1 features but it can cause some other problems. So
2 it is just -- I think I would characterize it is a
3 different feature but I don't know that it is
4 always going to be safer. I don't think it has
5 been studied to verify that it is always safer.
6 Therefore, I really can't say that it is always a
7 safer design.

8 BY MR. HARTMAN:

9 Q. Are you aware of any analysis as to the
10 511 foot control with a latch as compared to the
11 covered foot control without the latch?

12 A. I haven't seen any analysis that says that
13 one is measurably safer than the other.

14 Q. Do you have an opinion as to whether one
15 is measurably safer than the other?

16 MR. ROBINSON: Objection, just asked and
17 answered.

18 THE WITNESS: I think there could be
19 circumstances where it may be safer and other
20 circumstances where it does nothing and a third set
21 of circumstances where it might cause another kind
22 of accident scenario.

23 BY MR. HARTMAN:

24 Q. With regard to a foot control being

1 included as standard equipment on a brake press --

2 A. Press brake.

3 Q. -- press brake, do you have an opinion as
4 to whether or not the toe latch should be included
5 as standard equipment as opposed to a foot control
6 without the toe latch?

7 MR. ROBINSON: Objection to the form.

8 THE WITNESS: I see no reason that the standard
9 equipment with a toe latch.

10 And when I say that, I mean that it has to have
11 a toe latch. You can provide it that way but
12 I don't believe it has to have a toe latch for it
13 to be reasonably safe.

14 BY MR. HARTMAN:

15 Q. Is a manufacturer who includes as standard
16 equipment a -- strike that.

17 Is a manufacturer of press brakes who
18 includes a foot control with a toe latch violating
19 any standard that you are aware of?

20 A. No.

21 MR. ROBINSON: Objection to the form. Excuse
22 me for interrupting.

23 BY MR. HARTMAN:

24 Q. On page 18, please.

1 A. Yes.

2 Q. Item 3, the plaintiff's expert states it
3 is axiomatic in safety engineering that every
4 safety device or system will eventually degrade.

5 A. Yes.

6 Q. Do you agree with that?

7 A. That he said that?

8 I agree that he said that, yes.

9 Q. Do you agree with that statement?

10 A. Well, the choices of words here, will
11 eventually degrade. It kind of depends on what you
12 mean by degrade. If it means will eventually fail
13 and if eventually means given an infinite amount of
14 time, then, yes.

15 And if it's degrade means fail, then, yes.

16 If eventually means over a reasonable
17 lifetime and degrade does not mean fail, then
18 I would disagree with him.

19 Q. So you do not agree with the statement
20 that over the reasonable life of every safety
21 device it will eventually fail?

22 MR. ROBINSON: Objection to the form. Also
23 asked and answered.

24 THE WITNESS: Over the -- every safety device

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1 over its reasonable life will fail?

2 BY MR. HARTMAN:

3 Q. Would you expect that a safety device to
4 -- would you expect a safety device if properly
5 designed to fail over the reasonable life
6 expectancy of that safety device?

7 MR. ROBINSON: Objection to the form.

8 THE WITNESS: I think that a safety device
9 should be designed so that over its reasonable life
10 it doesn't fail. In reality we cannot make things
11 perfect in all ways. So I would expect that there
12 will be with safety devices a very small, minute
13 number that may fail prematurely.

14 BY MR. HARTMAN:

15 Q. Is it your testimony today that -- strike
16 that.

17 Do you have an opinion today as to whether
18 or not a Linemaster 511 with a cover would fail
19 during its reasonable life expectancy?

20 MR. ROBINSON: Objection to the form and the
21 breadth.

22 THE WITNESS: I don't know that you can say
23 what a reasonable life expectancy is for that
24 product. It depends on how it is being used.

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1 There are pieces of equipment where that pedal
2 might be used once a day and it is in a very nice
3 environment. There are other places it might be
4 used every other second, 24 hours a day, and it is
5 a bad, dirty environment.

6 I don't know that there is enough information
7 in your question to answer it and have it be a
8 meaningful answer.

9 BY MR. HARTMAN:

10 Q. So you have no opinion today?

11 MR. ROBINSON: Objection to the form.

12 THE WITNESS: I don't think there is enough
13 information in the question the way you posed it
14 for me to have a meaningful answer.

15 BY MR. HARTMAN:

16 Q. Is there enough information in the
17 materials that were supplied to you by Mr. Robinson
18 during the pendency of this case to make a
19 determination as to whether or not a covered foot
20 control would have failed had it been supplied with
21 the press brake in 1978?

22 MR. ROBINSON: Objection to the form.

23 THE WITNESS: I don't think so.

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1 BY MR. HARTMAN:

2 Q. I would like to turn you to page 20.

3 A. Yes.

4 Q. At the top where you have the quoted
5 portion, line four, where it says the installation.

6 A. Uh-huh.

7 Q. Your quote is the installation of
8 redundant guards and safety devices as backup
9 safeties were not judged to significantly improve
10 safety.

11 Did I correctly read that?

12 A. I believe so.

13 Q. Do you agree with that statement?

14 MR. ROBINSON: Object to the form.

15 THE WITNESS: I believe that that's what the
16 author wrote. Do I believe that that's true?

17 BY MR. HARTMAN:

18 Q. Yes.

19 A. Let's see. This has to do with this is
20 the middle of the whole paragraph here. Let me
21 read it to myself, if I could.

22 Yeah, I think what they are saying is that
23 redundant guards or backup devices were not the
24 point-of-operation safeguarding and they were found

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1 not to be sufficient with no hands in dyes kind of
2 concept. So I think I generally agree with that.

3 Q. I am going to refer you to the safety
4 brief entitled Foot Controls: Riding the Pedal by
5 Ralph Barnett; are you familiar with that document?

6 A. I have some familiarity with it. Do you
7 have an extra copy for me to look at? Or let me
8 try to find it here.

9 Q. I believe you have a copy in your file.
10 I saw it this morning. I have a copy for myself;
11 but if you can't find it, I will certainly give you
12 mine.

13 A. Yes.

14 MR. HARTMAN: Would you mark that as
15 Exhibit 11?

16 (Whereupon, HUTTER Deposition
17 Exhibit No. 11 was marked for
18 identification.)

19 THE WITNESS: Do you want it on mine or yours?

20 MR. HARTMAN: Well, we can do it either way.
21 Whichever way --

22 THE WITNESS: The only reason I hesitate to put
23 it on here is mine follows the copies I sent to
24 you; and if I take it out of here, then things

1 start getting misplaced. But, okay, I will put it
2 on here. Make sure I have all of the pages.

3 Okay.

4 BY MR. HARTMAN:

5 Q. Looking at Exhibit No. 11, there are,
6 I believe, 12 pictures of foot controls; am
7 I correct?

8 A. Yes.

9 Q. Do any of those foot controls not satisfy
10 ANSI B11.3?

11 MR. ROBINSON: Object to the form.

12 THE WITNESS: I think in a strict
13 interpretation of the ANSI standard, foot controls
14 1, 2, 3 and 4, because they don't have side
15 shielding on them, may not conform with the current
16 standard of ANSI. But I believe if they were
17 utilized in a proper way where there is sufficient
18 point-of-operation safeguarding, they may be deemed
19 by OSHA to be reasonably safe.

20 BY MR. HARTMAN:

21 Q. We are talking about ANSI, I am sorry.

22 With regard to the ANSI B11.3 that was in
23 existence in 1978 would you agree, sir, that all 12
24 comply with the standard?

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1 A. Yes.

2 Q. Now, has there been a change with regard
3 to the foot control requirements in the ANSI
4 standards that would possibly eliminate foot
5 controls No. 1 through 4?

6 A. Yes, I think the standards -- I don't
7 remember what year -- required a side shield or
8 recommended side shields.

9 Q. Would it be a fair statement, sir, that as
10 long as you meet the recommendations of the ANSI
11 B11.3 requirements related to foot controls, then
12 the foot control is approved by ANSI?

13 MR. ROBINSON: Object to the form of the
14 question.

15 THE WITNESS: Can you say that again?

16 BY MR. HARTMAN:

17 Q. Would you agree, sir, that as long as you
18 meet the ANSI requirements as it relates to foot
19 controls that are outlined in B11.3, then the foot
20 control is approved for use on press brakes?

21 MR. ROBINSON: Same objection.

22 THE WITNESS: I think if it meets all of the
23 criteria in those standards, yes. Approved meaning
24 it is okay to use it.

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1 Are we done with this document?

2 BY MR. HARTMAN:

3 Q. Yes, at this moment we are.

4 A. Let me put it in the stack here so I don't
5 walk away with it.

6 Q. Sir, do you agree with the statement that
7 power press brakes are not power presses but a
8 totally distinct machine by themselves?

9 MR. ROBINSON: Objection, asked and answered at
10 length in the beginning of the deposition and then
11 again in the middle of the deposition.

12 THE WITNESS: You know, they are alike but they
13 are different. They have different codes and
14 standards by OSHA and ANSI. They have some
15 similarities. They have some differences. We
16 talked about them in quite a bit of detail in the
17 early part of this deposition.

18 So depending on what that author is talking
19 about -- it is probably Ralph Wellington -- they
20 are different machines. They are not the exact
21 same thing. It is kind of like talking about a
22 pickup truck and an automobile. They are kind of
23 alike but they are kind of different.

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1 BY MR. HARTMAN:

2 Q. Do you agree with the statement, the power
3 press brake is one of the most versatile machines
4 in a metal fabricator's plant?

5 A. It could be one of the most, yes. In fact
6 I think I used that terminology in my report.

7 Q. Do you agree with the statement that the
8 power press brake's long, narrow work area enables
9 thousands of different part configurations to be
10 formed using general purpose tooling?

11 A. Yes.

12 Q. Do you agree with the statement that
13 usually press brakes are used for small and medium
14 lot size work?

15 A. Lot size work, is that the last part of
16 what you said?

17 Q. Yes, yes.

18 A. Usual --

19 MR. ROBINSON: Let me object to the form of the
20 question.

21 THE WITNESS: It is quite often that they are
22 used for smaller production runs. But this plant,
23 it seems like, was making this part over long
24 periods of time. So that might be a little

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1 inconsistent at least with that notion. I think
2 that's Ralph Wellington's work in his article.

3 BY MR. HARTMAN:

4 Q. Would you expect an operator to support
5 the piece being formed in a press brake -- strike
6 that.

7 Would you expect an operator to be
8 independently supporting a piece of metal that's
9 being worked with on a punch press?

10 MR. ROBINSON: I will object to the form.

11 THE WITNESS: There could be some operations on
12 a punch press where an operator could be supporting
13 a piece of the piece being worked on.

14 BY MR. HARTMAN:

15 Q. Would you expect it to occur though?

16 MR. ROBINSON: Object to the form of the
17 question, also asked and answered.

18 THE WITNESS: You know, expect, I wouldn't be
19 surprised to find a process in a plant that uses a
20 mechanical press where part of the piece being work
21 on is outside of the press and a person is
22 supporting it.

23 MR. HARTMAN: Can we take a break for one
24 minute?

1 Off the record at 12:33 p.m.

2 (A short break was taken.)

3 MR. HARTMAN: We are done.

4 FURTHER DEPONENT SAITH NOT.

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1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)

4 I, Deanna Amore, a notary public within and for
5 the County of Cook County and State of Illinois, do
6 hereby certify that heretofore, to-wit, on the 12th
7 day of April, 2006, personally appeared before me,
8 at 33 North LaSalle Street, Chicago, Illinois, GARY
9 HUTTER, in a cause now pending and undetermined in
10 the United States District Court for the Western
11 District of Pennsylvania, wherein TINA LINDQUIST is
12 the Plaintiff, and HEIM, L.P. is the Defendant.

13 I further certify that the said witness was
14 first duly sworn to testify the truth, the whole
15 truth and nothing but the truth in the cause
16 aforesaid; that the testimony then given by said
17 witness was reported stenographically by me in the
18 presence of the said witness, and afterwards
19 reduced to typewriting by Computer-Aided
20 Transcription, and the foregoing is a true and
21 correct transcript of the testimony so given by
22 said witness as aforesaid.

23 I further certify that the signature to the
24 foregoing deposition was reserved by counsel for

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1 the respective parties.

2 I further certify that the taking of this
3 deposition was pursuant to Notice, and that there
4 were present at the deposition the attorneys
5 hereinbefore mentioned.

6 I further certify that I am not counsel for nor
7 in any way related to the parties to this suit, nor
8 am I in any way interested in the outcome thereof.

9 IN TESTIMONY WHEREOF: I have hereunto set my
10 hand and affixed my notarial seal this 19th day
11 of April, 2006.

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NOTARY PUBLIC, COOK COUNTY, ILLINOIS

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